

## ***Minutes***

### **DAGSBORO TOWN COUNCIL**

**Bethel Center – 28307 Clayton Street**

**Monday, February 27, 2017**

#### **I. CALL MEETING TO ORDER**

6:00 p.m.

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Norwood Truitt, Council Members Patrick Miller, William Chandler, and Theresa Ulrich, Town Administrator Cynthia Brought, Police Staff Sergeant Harry Litten, Engineer Kyle Gulbranson, and Attorney Rob Witsil. See attached sign in sheet for other members of the audience.

#### **II. PUBLIC COMMENT**

Nate McCabe from Boy Scout Troop 281 in Ocean View is working on his Eagle Project and would like the Town of Dagsboro to be the beneficiary. He would like to do a marked trail starting at Katie Helm Park and continuing down Clayton Street. The trail would be on the sidewalk and marked pedestrian crossings so that safety won't be an issue. All fundraising, labor, and building of signs will be done by Nate and his fellow scout members. He is looking for permission to build and place four distance markers and a sign with a map of the town and color coded trails on the sign. He would need a beneficiary recipient signature and acknowledgement of the placement of the signs to move forward.

Mayor Baull thinks this is a great idea. Attorney Witsil asked where people would be crossing the streets. Nate responded that the trail starts at Katie Helm Park so they would come down Main Street and cross at the light at Clayton Street and continue down Clayton Street, with the option of returning to the park. This would be using the existing crosswalks for any points crossing the streets. Attorney Witsil advised he might want to check with Del-Dot for crossing markers, just to be sure they would be approved. Nate showed his drawings and clarified that nothing would be marked in the roadway. Attorney Witsil then stated he shouldn't need to go before Del-Dot if he is not marking the roads.

Mr. Gulbranson asked what the mileage is. Nate responded that total, it could be a two mile trail. Nate also informed Town Council that he is interested in Dagsboro because he is a student on the cross country team at Indian River High School so they run on the sidewalks. Nate would need permission to place the signs next to the sidewalk, on the part of the property that is owned by the town and shared pictures of potential locations.

Councilwoman Ulrich suggested, if digging will be done for the sign posts, checking for utilities may be necessary. Attorney Witsil agreed that they should check with Miss Utilities before digging. He also stated that Del-Dot does have a right-of-way for our roads, but he doesn't have that with him to check. Mr. Gulbranson stated that if they could have the locations Nate wanted, they could check on the utilities and the right-of-way to see if any adjustments are needed. Attorney Witsil recommended a motion to approve the project contingent on verifying the sign placements are not in the right-of-way.

Councilwoman Ulrich made a motion to approve the project contingent on the placements not being in the right-of-way or on utilities. Councilman Chandler seconded. All in favor.

Cindy Gallimore, a town resident, asked who maintains the town signs (like those out on the highway) as they are in need of maintenance. She suggested the FFA at the high school or the Honor Society could maybe use some volunteer hours and the possibility of Southern States donating mulch. Mr. Gulbranson suggested that a local landscaping company might be willing to sponsor it.

### III. PUBLIC HEARING AND VOTE

- A. This is an ordinance to amend Chapter 34, sections 34-2, 34-3, and 34-4 of the municipal code of the Town of Dagsboro, to provide for respectively: a mandatory residency period of three years for planning and zoning commission members; ex officio status on the commission for the Town Administrator; and removal of a commissioner for two or more unexcused absences.

Attorney Witsil informed those present of the rules for a Public Hearing and proceeded to state the proposed changes for the ordinance to amend the Municipal Code of the Town of Dagsboro, Delaware, Chapter 34, sections 34-2, 34-3, and 34-4 of the municipal code of the Town of Dagsboro. He stated that there are three sections to this amendment. Section 34-2 would change the requisite residency of a potential member of the Planning and Zoning Commission. The current requirement is that the potential member be a resident or property owner in town and the new amendment would require the member to be a resident or property owner for at least three years before the date of their appointment. Section 34-3 changes to include the Town Administrator, along with the Mayor, for ex officio status on the Planning and Zoning Commission. There is also a change in the wording of the second sentence to read "he or she" instead of "he." Section 34-4 pertains to the removal of Planning and Zoning members. This would be a change to remove a commission member for two or more unexcused absences to the Planning and Zoning meetings.

The meeting was then opened up for questions from Town Council and those in favor of the proposed ordinance, followed by those opposed. Mr. Scott Crater, Planning and Zoning member, asked what brought the change from three to two absences about. Councilman Chandler responded that they are just making it consistent with the Town's Charter. Councilman Chandler asked for clarification that there would be three voting members and that can't include ex officio members. Attorney Witsil stated that is correct. Following this discussion, a motion was made to close the public hearing by Councilman Chandler and seconded by Vice-Mayor Truitt. The motion carried unanimously. Councilman Chandler then made a motion to adopt the proposed ordinance as drafted. It was seconded by Vice-Mayor Truitt. The motion carried with all in favor.

- B. This is an ordinance to amend the municipal code of the Town of Dagsboro, Delaware by the adoption of Chapter 112 containing new regulations prohibiting smoking upon and within town property and by amending Chapter 1, Article II to provide civil penalties for violations.

Attorney Witsil explained that this is an additional regulation to prohibit smoking within town, public places. Attorney Witsil also defined smoking as in Chapter 112-1 and stated that this prohibition would include all parks and playgrounds, Town Hall and the Police Department, town vehicles, the land at 33134 Main Street, and Prince George's Chapel Cemetery. There is a requirement for signs to be posted, if the ordinance carries. There is also a grace period for one warning. If they are cited again, the violation would be controlled by the civil violation penalties in Chapter 1, under General Provisions.

Attorney Witsil opened the meeting to Town Council for any questions and asked if this meets the standards for Councilman Chandler, as he was the one initiating this proposal. Councilman Chandler stated that it does. Councilwoman Ulrich asked if the property at 33134 Main Street ever is sold, if that would then need to be removed from the ordinance. Attorney Witsil responded that could be addressed at that time; it would probably fall out if it were no longer town property. He stated that since the locations are specified in the ordinance, the address could be deleted now or it could be deleted later. An amendment will be added so that it would read "lands currently owned by the town."

Attorney Witsil opened the public hearing for those in favor and then those opposed. There were no comments on the proposed ordinance. A motion was made to close the public hearing by Councilman Chandler and seconded by Vice-Mayor Truitt. The motion carried unanimously. Councilman Chandler then made a motion to adopt the proposed ordinance as drafted. It was seconded by Vice-Mayor Truitt. The motion carried with all in favor.

#### IV. APPROVAL OF MINUTES

##### a. January 23, 2017 – Town Council Meeting

A motion to approve the minutes was made by Vice-Mayor Truitt and seconded by Councilman Chandler. All in favor.

#### V. CONSENT AGENDA

- A. Police Department Report
- B. Treasurer's Report
- C. Administrative Report
- D. Economic Development Committee
- E. Building Official Report
- F. Code Enforcement Report
- G. Meeting Reports
- H. Water Department Report
- I. Prince George's Chapel Cemetery Report
- J. Correspondence

Motion to approve the consent agenda was made by Councilman Chandler and seconded by Vice-Mayor Truitt. All in favor.

## VI. PLANNING & ZONING COMMITTEE

### A. Agenda items from February 15, 2017 meeting:

Planning and Zoning Committee Chairman Brad Connor shared an update on the Planning and Zoning Committee, including their focus right now being on making the sign ordinance more concise.

#### a. Dagsboro Fire Company signage recommendation

Mr. Connor has heard at meetings around the county some negative talk about the town because of not allowing the fire company to have a sign. He did some research and found that the fire company was approved for their electronic sign and the issue seems to be with the lettering on the building. He understands that Town Council does not want to set a precedent, but recommended giving them a waiver to exempt the fire company.

Mr. Gulbranson explained that the problem with the lettering is that every business in town is allowed two wall signs of twenty-four square feet each. For most buildings in town, this is probably appropriate, but the fire company is such a big building and our code isn't scalable to consider the size of the building. Considering the fire company has a 75<sup>th</sup> anniversary in the summer, they would like to have a sign by then.

Vice-Mayor Truitt asked if one method (the waiver versus changing the code) would be faster than another. Attorney Witsil responded that one would not be faster than another. A waiver would actually not be through the Town Council, it would be through the Board of Adjustment, which does have fees. Attorney Witsil suggested the best method would be to amend Chapter 275-7 to exempt the Dagsboro Volunteer Fire Company from the sign ordinance. Another option would be to acknowledge that the Dagsboro Volunteer Fire Company is a governmental building and rather than stating "fire stations," as the code currently does, it could state "the Dagsboro Fire Department" and this would exempt them, from all aspects of the town code, not just signs. Attorney Witsil believes the easiest way would be to amend Chapter 275-7.

Councilman Chandler asked if it would be faster and cheaper to waive the Board of Adjustment fee and have the Board of Adjustment consider it. Mr. Gulbranson noted that this method would only be a one time sign provision and if the fire department wanted any future changes, they would have to come again. Attorney Witsil stated that getting the Board of Adjustment together and to go through the process would actually not be any faster.

Councilman Miller mentioned that this was discussed previously and he had pointed out that 275-7 includes fire departments. Vice-Mayor Truitt stated they had concluded that was government fire departments. Councilman Miller understood, but asked if a possibility would be to add that it includes volunteer fire departments. Attorney Witsil agreed that this is one of the possibilities and it would exempt them from all zoning regulations.

Councilman Chandler summarized by stating there are two options, exempt them from the sign ordinance or exempt them from all zoning regulations. Councilwoman Ulrich suggested that since it is currently just the sign that there is an issue with, they could just do the sign ordinance so that the fire company could get their sign up. Councilman Chandler asked if that would include a presentation for

Town Council. Mr. Gulbranson answered that the fire company stated they would bring their plan before Town Council. Councilwoman Ulrich and Councilman Chandler stated that if the fire department is then exempt from the sign ordinance, they could do whatever they wanted. Attorney Witsil responded that he could draft an ordinance that would include Town Council's approval of the sign plan. Council members were all in agreement for this.

b. Delaware National Guard – Armory recommendation

Mr. Connor shared with Town Council that this project had some changes and they are not ready for this meeting so this will be postponed.

VII. NEW BUSINESS

A. Nomination for Board of Adjustment; Diane Carey's term expired 11/30/2016

Diane Carey is willing to continue on the Board of Adjustment. Mayor Baull asked if there were any other nominations. There were not. Mayor Baull made a motion to accept Mrs. Carey's nomination. All in favor.

B. Delaware Mosquito Control for 2017

Councilman Chandler asked who the mosquito contact person will be. Town Administrator Brought responded that it would probably be her. Councilman Chandler noticed the information needed to be sent in by March 10<sup>th</sup>. Town Administrator Brought stated she has all of the paperwork ready to be signed.

Councilman Chandler noted that when they notify the town that they are coming to spray, we should probably publicize that information. Town Administrator Brought agreed that it could be put on Facebook and the town website. Vice-Mayor Truitt made a motion to approve the Mosquito Control Plan for 2017. Councilman Chandler seconded. All in favor.

VIII. OLD BUSINESS

A. Committee Report De-annexation of Bireley Property

Vice-Mayor Truitt reported on the de-annexation of the Bireley property. He stated that it is complicated and would involve having a town election. Vice-Mayor Truitt has spoken with Debbie Botchie, the Town Administrator in Millville, and the election was the only way they were able to do a de-annexation. That was the conclusion he was able to come to.

Attorney Witsil stated that when the Town Council first received this request, he had mentioned that there is nothing in the charter pertaining to a de-annexation procedure. He recommended that the procedure for annexation be followed for de-annexation. The charter would need to be amended, by coming up with a specific procedure for de-annexation, and that would mean going before the General Assembly to ask for the charter to be amended. In light of this, it is Attorney Witsil's suggestion that the provisions of section 3-A be followed in reverse. This suggestion is why he gave his opinion that there needed to be a committee of not less than three council members, and not later than 90 days following that appointment (according to the charter), the committee would submit a written report with the recommendations. He suggested that a written report be made stating a de-annexation is recommended by the committee, if that is the case. A written report would be needed and then a

resolution would be made to de-annex the property. He also stated that the Sussex County Planning and Zoning Committee and the Sussex County Council be notified that this is pending and invite their comments; he can take care of this aspect immediately.

Councilman Chandler asked if anybody at the state level would need to be contacted. Mr. Gulbranson responded that they would and he has been in contact with them this week. The town of Millville has several properties that are split and partially in town and partially in the county, which is causing development issues for properties there. Millville had contacted the Office of the State Planning and Sussex County to find out what the process was for fixing the issues in those situations. Those situations are a little simpler and Mr. Gulbranson was told that would not work in this case – that they would need to go through the full de-annexation process. Once the town does decide to de-annex a property, the town does need to change the Comprehensive Plan/Future Land Use Map to take that property out of the town boundary, which would be relatively simple. Councilman Chandler clarified that they (Bireley's) wouldn't have any problems with that.

Attorney Witsil suggested that the Hearn's and Bireley's submit the same letter, but with an updated date. Mr. Gulbranson shared that he has been in contact with Ms. Bireley to try to find a solution to keep them in town to prevent the town from losing property. The concern is how the land can be developed in a way that is following the town code. Water could be taken care of relatively easily, but the sewer is the issue. The soil was tested and regular septic systems would not work there. Their best case scenario would be three or four lots and a small farmette, which would be served by sewer. If somebody bought a five or six acre property, they would most likely want a horse or a cow or some sort of livestock that the Dagsboro town code does not currently allow. Mr. Gulbranson thinks there could be changes made to allow this to happen, but given all of the information, it probably would be best for them to de-annex from the town.

Attorney Witsil asked Ms. Hearn if she could submit a new letter with tomorrow's date on it and she replied that she could. If they wish to expedite this process, with the new letter and the committee's report submitted both to the town administrator and to the attorney, Attorney Witsil can draft a resolution immediately for this to be advertised for the meeting on March 20<sup>th</sup>.

Mr. Gulbranson asked for clarification on what the town code states the make-up of that committee needs to be. Attorney Witsil replied that it needs to be three elected members of Town Council. Councilman Miller also replied that it is three members: Councilwoman Ulrich, Vice-Mayor Truitt, and himself and that they are all in agreement with the de-annexation. Attorney Witsil advised that as it stands now, this was set up in December and the written report needs to be within ninety days. The committee needs to submit a letter within that ninety day time frame stating its findings and conclusion. Then the Town Council may then pass a resolution either annexing or de-annexing the territory and that can be done at the next meeting. Since this would be done within the ninety days, Ms. Hearn does not need to do a new letter.

Vice-Mayor Truitt asked for clarification on what the report should include besides the committee's recommendation. Mr. Gulbranson suggested listing some pros and cons. Attorney Witsil replied with the response in the charter that states it should include advantages and disadvantages and the conclusion.

#### B. Kyle Gulbranson – Surface Water Grant Update

When Town Administrator Brought forwarded the information that our state legislators would be helping with the Surface Water Grant, Mr. Gulbranson contacted DNREC to check on the status and was informed that the grant was not approved. He asked when they were going to inform the town of this and they responded that they typically don't. When he was speaking with them, he asked why it was denied and was told that it was because it seemed to be a drainage project, not a water quality project. They wanted more water quality discussion, which he did, and even more detailed information on possible structures that could be incorporated to provide better water quality and best management practices. This has all been done and it has been re-submitted and they meet next month so there should be a decision then.

Councilwoman Ulrich asked what would happen if the town is not approved this time. Mr. Gulbranson stated they could scale the project back and make it a more limited scope. Councilman Chandler clarified that DNREC's part would be the match to the part that the legislators are funding for the town so if it is not approved, the town could either come up with that part or try to scale it back so that it costs less. Mr. Gulbranson affirmed this.

#### C. Real Estate Transfer Tax Account

Last month it was suggested that the town get a CD for some of the Real Estate Transfer Tax Account. WSFS bank has a rate of 1.7% for \$50,000. TA Brought spoke to Crystal at the Bank of Delmarva and Crystal spoke to her supervisors and they agreed to match the 1.7% as well. Town Administrator Brought asked for input on how the Town Council would like to do this – if \$90,000 is okay and if they wanted to break it down into a \$50,000 CD and \$40,000 CD. She stated that we wanted to leave some money in the account because then it is available for the town in an emergency. Councilman Chandler asked how much that would leave in the account. Town Administrator Brought replied it would be around \$30,000 and that it grows fairly quickly. Councilwoman Ulrich asked what the penalty is if the town would have to pull it out. Town Administrator Brought responded that she was not sure and would look into this.

Councilwoman Ulrich suggested that the town does at least the \$50,000. Vice-Mayor Truitt responded that it could be kept altogether and put the whole \$90,000 in. Town Administrator Brought also informed them that a check for \$6,000 recently came in for Dr. Squire's office on the highway and that when the town purchased a police car, it came to \$16,000, but that is the only large amount of money she has seen come out of that account. Councilman Chandler commented that there would still be \$30,000 in the account, plus it is growing. He agreed with the suggestion of breaking it down into \$50,000 and \$40,000. Councilman Chandler made a motion to move the money into a \$50,000 CD and a \$40,000 CD. Seconded by Councilwoman Ulrich. Mayor Baull stated we have a motion and second and that the town will move \$90,000 from the Real Estate Transfer Tax Account, moving \$50,000 to WSFS and \$40,000 to the Bank of Delmarva, or wherever is appropriate. All in favor.

#### D. Payroll – ADP – QuickBooks – Cash Management/Bank of Delmarva

Town Administrator Brought shared with the council that since the town started with ADP in August, \$1,661.55 has been spent and it averages about seventy to seventy-five dollars each pay period. In speaking with Stacey, the previous Town Administrator, in the past when the town did its own payroll with Quickbooks, they used the online download, which is \$565 a year. Town Administrator Brought did some research online and found the software on Amazon for \$210. She also spoke with the auditor that performed the town audit and she recommended the software. Town Administrator has used

Quickbooks for payroll in the past and those that she has interviewed did not seem uncomfortable with it, although they would need to be trained. She believes Quickbooks is simple and easy to learn. She does also believe, as she discussed with Councilman Chandler earlier, that we don't want to mess with payroll – it needs to be done correctly and with the many accounts that we have, it isn't that simple to just hand out a check. There are several employees interested in maintaining direct deposit and that is \$1.75 per check, per payroll and there would need to be an extra piece of software for the direct deposit (that was about \$60).

Town Administrator Brought also spoke to the Bank of Delmarva about their Cash Management program. This would involve figuring out the check manually, including taxes and withholdings, and then tell them the net amount. Town Administrator Brought stated the disadvantage to this is that people like to see how that number was determined instead of just seeing the final number in their account. Councilwoman Ulrich asked if a stub could just be made to give them and TA Brought agreed that could be done, but Quickbooks would be needed for that. The Cash management is only \$10 a month and direct deposits can be done, but there seems to be no point.

Councilwoman Ulrich asked what the total savings would be from ADP. Vice-Mayor Truitt pointed out Quickbooks would be a one time purchase and the only other thing to pay for would be the direct deposit. Councilman Miller added there would also be the hourly wage for a town employee to input the information.

Town Administrator Brought mentioned that ADP does the town taxes also so the quarterly and yearly taxes would be moved back in house as well. She did request that if Town Council would like to switch, that they allow the change to wait until the next quarter, April 1<sup>st</sup>, for tax purposes, plus it would allow time to correct errors that are currently in Quickbooks before switching everything over. Vice-Mayor Truitt clarified that if the software is purchased, the only other purchases would be updates each year. Councilwoman Ulrich and Town Administrator Brought both affirmed this, but stated that updates could be around \$200 also. Vice-Mayor Truitt stated that worst case scenario, this would cost about \$1,000 for the year, which is still a savings because as of now, over \$1,000 has already been spent. Councilwoman Ulrich shared that her main objective was the keep the cost down and the only other way to do this would be switching to a bi-weekly payroll, which she knows would not work as well.

Vice-Mayor Truitt asked about how much time would need to be devoted each week to doing payroll. Town Administrator Brought responded that if it were somebody that knew what they were doing, it would just be a day's worth of work until the quarterly and yearly taxes. Vice-Mayor Truitt's point was that the town is hiring anyway so payroll could just be part of their job description. He also asked is Town Administrator Brought is comfortable with this and she is. Councilwoman Ulrich also pointed out that even though there are several accounts, there are not many employees so that wouldn't be a major issued. Town Administrator Brought agreed.

Councilman Chandler is not against this at all, but did share concerns because the auditor tells the town every year that they lack the internal financial controls that give the town a less than complete blessing. The auditors do recommend that an external agency for payroll is better because of the internal financial control issue and if this is brought back in house, we aren't solving their problem. Having said that, he is not against bringing payroll back, but he did suggest when hiring somebody new, not to rush to be ready for the April 1<sup>st</sup> deadline to switch and it could just wait until the start of the new fiscal year. Vice-Mayor Truitt agreed that the transition shouldn't be rushed. Councilwoman Ulrich also informed



that where the checks and balances are most needed are the accounts receivable and that accounts payable has checks and balances with the signatures needed on checks and monitoring direct deposit. She thinks the savings is worth bringing payroll back in house. Councilman Chandler made a motion to purchase the Quickbooks Pro software with payroll and to continue direct deposit as an option. Vice-Mayor Truitt seconded. All in favor.

E. Bob Flowers – Trash Can from Blue Hen for Spring/Summer

Mr. Flowers, maintenance for the Town of Dagsboro, was approved back in October to get another trash can to keep at Town Hall for the spring and summer and just wanted to verify that. He currently has 9 contractor size bags sitting in the garage and the busy time of year at the park just started. Town Council was in agreement for this extra trash can.

F. Discussion on Waiver or Policy Change Regarding Holiday Pay – Part-time

The waiver is currently only through February so Town Administrator Brought asked if that will be stopping or if holiday pay for part-time employees will continue. Councilman Miller asked if employees have been told that it will be stopping at a certain time. Town Administrator Brought responded that she did not, but did inform them the waiver was only through February.

Councilwoman Ulrich asked about how long the part-time employees work. Town Administrator Brought informed her that each employee works for four hours a day so she confirmed they are getting half a day for the holiday. Councilwoman Ulrich stated that she doesn't have a problem with the holiday pay. Councilman Chandler made a motion to continue the waiver for part-time employees to get holiday pay through the rest of 2017. Vice-Mayor Truitt seconded. All in favor.

IX. PUBLIC COMMENT

Mayor Baull asked if there were any public comments before the council proceeds into the Executive Session. There were no public comments.

Councilman Chandler made a motion to close this part of the Town Council meeting. The motion was seconded by Councilman Miller.

X. EXECUTIVE SESSION

A motion to move into the executive session was made by Councilman Chandler and seconded by Vice-Mayor Truitt. All in favor. Please see separate minutes.

XI. ADJOURNMENT

Upon returning from the Executive Session, a motion to adjourn the regular meeting was made by Vice-Mayor Truitt and seconded by Councilman Miller. Meeting was adjourned at 7:43 p.m.

Respectfully submitted by;

Megan Thorp  
Town Clerk